CONTESTED ELECTION CASE—PATTERSON vs. CARMACK.

SPEECH

OF

HON. WILLIAM S. KIRKPATRICK,

OF PENNSYLVANIA,

IN THE

HOUSE OF REPRESENTATIVES,

THURSDAY, APRIL 21, 1898.

WASHINGTON.
1898.

SPEECH

OF

HON. WILLIAM S. KIRKPATRICK.

The House having under consideration the following resolutions:

"1. *Resolved*, That E. W. Carmack was not elected a member of the Fifty-fifth Congress from the Tenth Congressional district of the State of Tennessee, and is not entitled to the seat now held by him.

"2. *Resolved*, That Josiah Patterson was elected a member of the Fifty-fifth Congress from the Tenth Congressional district of the State of Tennessee, and should be awarded the seat now held by contestee"—

Mr. KIRKPATRICK said:

Mr. SPEAKER: The case that we are about to discuss is one which seems to have attracted considerable attention throughout the country as well as aroused a great deal of interest on the floor of this House. It presents many of the ordinary features of an election contest. It has also some exceptional and extraordinary characteristics. Your committee, so far as I have been able to observe the temper and disposition of its members, approached the consideration of this case without the slightest prejudice or partiality as between the contesting parties. Although the case has not yet been heard, and the reports from the majority and minority of the committee have been read by perhaps but few, we have already had a desperate struggle at the very threshold of its discussion. Perhaps a résumé of the facts and circumstances leading up to this contest may throw some light upon the apparent feeling which permeates the House on this question and has lined us up already in the matter of its consideration.

I need not say on behalf of the committee that this case was carefully and fully considered by every member, and a full discussion of the case upon its essential and controlling features and issues was had before the entire committee. I am sure that the members of this committee representing the majority have been actuated by a purely judicial temper in the discussion and decision of the issues presented in the present case. I am free to say that so far as I am concerned I have not had the slightest interest, personal or political, in the fortunes of either of these contesting parties. My sole desire has been to determine this case upon its merits, without regard to their political opinions or affiliations. That is a matter of very little consequence.

Indeed, so far as the gentleman who appears here as the sitting member is concerned, he has abundantly delivered himself both ways upon the great dividing question of the day, and at one time or another has expressed every variety of views, so that, judging by his utterances, it is hard to say just what he really does believe.

This case originated practically in 1894. With the intrusion of the money question into the ranks and organization of the Democratic party there arose a fierce controversy and division in that party; and the trouble apparently was as to whether the party

should remain moored to its old Jeffersonian and Bentonian principles or whether it should drift away under the fantastic leadership of the Populistic candidate to whom it intrusted its political fortunes in the last contest, and who swiftly led it to signal and overwhelming defeat.

This Congressional district is composed of four counties—Shelby, Fayette, Tipton, and Hardeman. In 1894 there was a contest in the district between two candidates representing the two phases of Democratic opinion upon the money question, the candidates being Mr. Young and Mr. Patterson; and after a struggle at the primaries, which was the method then in vogue by which a nomination was determined in this district, Mr. Patterson was declared the regular nominee. At the same time there was a contest for the membership of the executive committee of the district. There were three Sound-Money Democrats selected and two Free-Silver Democrats as members of this committee. A contest was raised as to a member from one of the counties. It was settled by the returning board before whom the votes at the primaries were canvassed in favor of the sound-money committeeman, and the result was that the control of the executive committee and of the Democratic organization remained in the hands of the Sound-Money Democracy of the Tenth Congressional district.

That was in 1894. In 1896 the heat of this contest had become intensified. Immediately after the famous stampede at Chicago this intensity of feeling became still more strong and overwhelming. and a renewed effort was made for the control of this organization. The result was that after it had been decided by the chairman of the committee that the action of the board in 1894 had settled this contest the two Free-Silver Democrats on the committee withdrew. These two seceding members recognized the claims of Dr. Albright, the contestant for the disputed place on the committee, whose right to admission to such membership had been settled and decided against two years before. And then this self-created committee, thus evolved out of this contest, selected two other Silver Democrats and constituted themselves a rival organization, claiming to represent and be in control of the Democratic party of the Tenth Congressional district.

Next followed the question as to the nominee. The regular committee, in accordance with the traditions and usages of the party in the district, announced a primary, which was the proper tribunal to determine the claims of the two candidates now contesting in this case to regularity of nomination. To this primary they should have submitted their case. The self-constituted committee, to which I have referred, ignoring the primary, called a convention, which was a radical departure from the long-established custom and practice of the district. By the primaries called by the regular organization Mr. Patterson was declared the nominee by about 5,000 votes.

The pseudo committee whose genesis I have described, representing the free-silver branch of the Democratic party—that branch of the party that had gone off after "false gods" and betrayed the ancient faith of the party—called a convention, and by this convention Mr. Carmack was nominated. His nomination was thus accomplished by revolutionary methods. The regular nominee of the Democratic party was Josiah Patterson; and the bolting nominee, according to the account I have given of the nominations, was Mr. Carmack; and in this way in 1896 two can-

didates, each claiming to be the regular candidate of the Democratic party, presented themselves for the suffrages of the people of the Tenth Congressional district of the State of Tennessee. Of course the question of regularity has no interest for us beyond the light it throws upon the present contest. With this family quarrel in the Democratic party of the district we have no further concern.

This history, Mr. Speaker, is only significant in view of the sequel. Mr. Patterson had the prestige of regularity of nomination. He represented that element of the Democratic party which, in many parts of the district, was very strong. Mr. Carmack, who, but a few years before, had been a pronounced sound-money man, and with all the wealth of the vocabulary with which he is gifted had denounced the heresy which was infusing itself into the Democratic party—Mr. Carmack was now practically a bolter, and represented that element which sought to drag the party away from the traditions handed down to them from generations gone by, and which was in direct and extreme antagonism to the cardinal financial principle of the Republican party.

Now, such was the situation at the time of this election. With Mr. Patterson representing the sound-money element of the Democratic party; with Mr. Patterson as the regular nominee of that party; with Mr. Patterson consistently and throughout all his political life a bold and earnest defender of the great principle which we contend lies at the very foundation of the true financial policy of this great Government, his candidacy appealed most strongly to the Republican voters of the district.

There is no wonder that in the final outcome, although there was some coquetting on the part of Mr. Carmack and his supporters with the Republican organization, some seductive wooing of its leaders, it transpired that the Republicans of the Tenth Congressional district, having so often in the past engaged in hopeless contests, with their bitter experience of being regularly counted out, as the record discloses in this case, from 1874 down, felt that there was no hope of success in nominating their own candidate, but that in a coalition with a representative of the principles that were then regarded as vital in the great contest on which the country was about to enter they would be consistent with themselves and with the purposes and doctrines of their party throughout the country in casting their votes for Mr. Patterson and that their duty was to join hands with that nominee of the Democratic party who best represented the same sound-money principle—that great and dominating issue of the hour.

Mr. BURKE. Will the gentleman allow a question?

Mr. KIRKPATRICK. Certainly.

Mr. BURKE. The gentleman has been referring to the contestant as one of the sheet anchors of the gold-standard policy.

Mr. KIRKPATRICK. Well, I did not use that language.

Mr. BURKE. Very well. I wish to ask the gentleman if the truth does not disclose the fact that the contestant cast his vote in the last election for William J. Bryan? [Laughter.]

Mr. KIRKPATRICK. I care nothing whatever about that. Whatever consideration of party fealty may have influenced him if he did so, his attitude upon the money question was open, bold, and uncompromising, and he incurred the denunciations and political enmity of Bryan himself. I am not defending Mr. Patterson for his political action in the past. He can do that better for him-

self. He has been too long in public life and too consistent in his advocacy of the great principle to which I have called attention not to make me feel entirely safe to leave the defense of his political course to himself, even if that were the matter directly involved in this issue.

Mr. BURKE. I did not ask the gentleman to defend him, but simply to state the facts.

Mr. KIRKPATRICK. It is not necessary to defend him. He has been, in season and out of season, pronounced on this great question, and many of you gentlemen here are lined up against him without having read the case or caring to know anything about it, only because you recognize and fear him as a determined enemy of that great folly of "16 to 1"—that vague and meaningless formula which has so strangely captured your imaginations and enticed you away from the old Democratic faith.

Mr. WHEELER of Kentucky. Does the gentleman mean to say that the contestant has been a consistent advocate of the gold standard?

Mr. KIRKPATRICK. I do.

Mr. WHEELER of Kentucky. Does the gentleman not know the fact that in 1896 the contestant voted for the free and unlimited coinage of silver at a ratio of 16 to 1? [Laughter and applause.]

Mr. KIRKPATRICK. I know——

Mr. RICHARDSON. Does the gentleman know that he canvassed Tennessee a short time ago as the Democratic candidate for governor on a free-silver platform?

Mr. KIRKPATRICK. I will not yield any further. I shall be glad to answer any questions propounded in the proper spirit. A controversy such as these gentlemen seek can serve no useful purpose, and I do not desire to be drawn off now from the consideration of the main question at issue. It is enough that Mr. Patterson was recognized by the Republicans as an advocate of sound money, and for that reason, having no hope of electing a candidate of their own, they indorsed his candidacy and cordially gave him their votes as being in harmony with them on the ruling question of the hour.

Mr. WHEELER of Kentucky. Then what are you talking about it for? [Laughter.]

Mr. KIRKPATRICK. I am talking about it because I want to show why the Republicans of that district rallied around him almost to a man in the hope of a fair count and in the hope of electing to Congress a man who would represent Republican principles.

I want to demonstrate that although for obvious reasons he must have received, and did receive, the full Republican vote in the contested precincts, it was counted by a most unscrupulous and audacious manipulation of the returns for the contestee. Now, I decline to yield to further interruption.

Mr. WHEELER of Kentucky. I insist that the gentleman confine himself to the case.

Mr. KIRKPATRICK. I must decline to yield any further, because it simply results in getting off upon irrelevant points. I am discussing the reasons why Mr. Patterson was elected to Congress in the Tenth Congressional district of Tennessee. It was because he had the enthusiastic and cordial support of the Republicans of the Tenth district, and he had it because he was a bold,

brave, and able defender of sound money and a sound financial policy.

Mr. HENRY of Mississippi. Was he a Republican?

Mr. KIRKPATRICK. I do not care to answer any further questions in that direction, because my time is limited and I desire to address myself to the merits of this case. I propose to show you that Mr. Patterson was elected, and what I have said to you is an element in the chain of proof to establish the fact that he was fairly elected, but was counted out by a most diabolical device. In the course of this campaign the Presidential candidate of the Democratic party himself appeared on the scene. The demoralized hosts of the Free-Silver Democracy in that old Tenth Congressional district were rallied, and notwithstanding the fact that Mr. Patterson was the regular nominee of the party, the necessity of keeping him out of Congress was earnestly urged, and the plan was concocted in the course of the campaign by those who had control of the election machinery, particularly in the heavy colored county of that district, by which he was to be counted out.

Now, the record is full of testimony from witnesses on both sides, Democrats and Republicans alike, that the course of those who manipulated and controlled the electoral machinery in the county of Fayette from time to time, in national, State, and local elections, had made that county a byword and notorious throughout the whole State of Tennessee, and perhaps throughout the entire Union, as a county that was given over to a bold, barefaced determination, year in and year out, to carry that county always for the Democratic party.

Mr. VINCENT. Was Mr. Patterson elected in that way when he came to Congress?

Mr. KIRKPATRICK. I do not care to be interrupted except for a proper question. I am perfectly willing to submit to a proper interruption. Now, the population of Fayette County under the last census was 8,386 whites and 20,492 blacks. The other counties, Tipton and Hardeman, were white counties, the majority of the people being white. The county of Shelby, of which the principal portion of the population resided in the city of Memphis, were pretty nearly equally divided. So the place where the best opportunity was presented for the construction and placing in operation of this machinery was Fayette County, where the colored population was so heavy that the whites numbered but about one-third or a little more of the entire population.

Mr. CARMACK. What do I understand the gentleman to say was the proportion of white and colored population in Fayette County?

Mr. KIRKPATRICK. Eight thousand three hundred and eighty-six whites and 20,492 colored.

Mr. CARMACK. What page of the record does the gentleman find that statement upon?

Mr. KIRKPATRICK. I can not now stop to refer to the page of the record. You can find it very easily. It is in the record, and I got it from the record. Those are the figures according to the last census.

You will find that after these nominations were made attempts were made by the representatives of Mr. Carmack to obtain Republican indorsement, and in the record it appears that as an inducement and basis for the proposed treaty it was suggested that

there should be a fair count allowed in Fayette County, and that the Republicans would get a fair count for the Republican candidates on the ticket if Mr. Carmack was accepted.

There was the frank and unblushing virtual admission that the Republicans had been systematically counted out and would be again unless the proposed arrangement for an indorsement was agreed to.

There was an attempt thus to arrange with the chairman of the Republican executive committee of Fayette County, Mr. Latta——

Mr. CARMACK. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman from Pennsylvania yield?

Mr. KIRKPATRICK. Does the gentleman wish to ask me a question?

Mr. CARMACK. That is all. I wish to ask you to what page of the record do you refer to sustain that statement?

Mr. KIRKPATRICK. I will answer your question now, and I will beg you not to interrupt me again to ask the page of the record, because it simply consumes time, and I am not going to make any statements here that are not sustained by the record.

Mr. CARMACK. I will not interrupt the gentleman at all, if he objects to it.

Mr. KIRKPATRICK. I do not object to this question. On page 12 you will find a description and account of the attempted treaty between the chairman of the Republican committee, Mr. Latta, and the friends of Mr. Carmack.

Mr. CARMACK. On page 12 of the record?

Mr. KIRKPATRICK. Yes.

Mr. CARMACK. I suppose the gentleman refers to the supplemental record.

Mr. KIRKPATRICK. That is right. I do not care to yield any further, because it simply consumes time to no purpose, and you have ample time on your side to answer anything I may say.

Now, I have called your attention to the condition of things that existed after these nominations were made, and the Republican convention had indorsed Mr. Patterson for very good and sufficient reasons, having set their face against the seductions of the Carmack people, who made no secret of their anxiety to secure the colored vote and who were eager and ready to bargain for it.

The testimony is that Mr. Patterson was favored by 90 per cent of the Republicans of the district. This fact was elicited in an examination of Mr. Dutro, a witness called by the friends of Mr. Carmack, in this record. There is no question at all but that the colored voters on national questions vote almost to a man for the Republican party and its nominees. The attempt has been made in this record, as well as in the minority report and in the argument of counsel, to discriminate between the voter voting for Mr. Patterson and the colored voter voting the Presidential or national ticket. By a reference to tables which are collated in the record and in the briefs of counsel you will find that in all the 10 contested voting precincts in Fayette County the vote for McKinley and Patterson was almost the same, the vote for the McKinley electors being 1,316 and for Josiah Patterson being 1,386.

Another circumstance which throws light upon the present controversy is the fact that there was a very warm support of Mr. Patterson by some of the leading Republicans who voted for the

McKinley electors, and who had been originally opposed to his indorsement and had been in favor of nominating a straight-out Republican candidate for Congress. You know just as well as I, from more or less experience in politics, that the regular nominees, because of the influence of the organization of the party and the sympathy produced by the advocacy of the same principles by the candidate and by those who make up the following of the party, gradually overcome such opposition as may exist at first, and by the time the election comes around there are but few who remain disposed to wander away from the organization and antagonize the nomination. It appears that there was an extraordinary effort to be made in this district to insure the election of the contestee.

It was deemed to be of the utmost importance to defeat Patterson. The friends of Carmack were rallied by the Presidential candidate himself. He appeared at a public meeting in Memphis during the canvass and openly denounced all who did not stand by the silver nominee for Congress in the district. What was the result? With the machinery of Fayette County in their hands, with the sheriff of that county in control of the appointments on the election boards, the only county in the district in which the election officers had not been appointed prior to election and advertisement thereof made, they confidently devised and executed their nefarious plan. In Tipton, Hardeman, and Shelby counties appointments had been made by the county court, as required by the law of Tennessee, and the names of the officials who had been designated to constitute the election boards were published in the various newspapers of the county.

But in Fayette County the court failed to act. The sheriff, J. E. Boswell, was a Carmack supporter. Before election day he had been applied to by the friends of Patterson to give them representation upon these various election boards. He promised to comply with this request. He promised to recognize the law of his State, binding upon him and upon his conscience under his oath of office; and yet election day came and no appointments had been made. But as the testimony abundantly shows, they were made up the night before or on the morning of the election and sprung upon the people in these various districts without consulting their wishes and even against their earnest protests. They were made up in all the contested election precincts, as well as in some not contested, of the friends of Mr. Carmack.

In some cases all of them were free-silver Democrats, and in others, an ignorant, half-idiotic negro, who could not read or write, was foisted upon the voters of those districts as the so-called representative of the Republican or Patterson party, put there for the pretended purpose of securing a fair count and free ballot. Why, that fact and the additional and significant circumstance that though the battle in this case was mainly waged around the action of the sheriff, although he was used as the facile instrumentality through which this wrong was originated and perpetrated, he does not appear as a witness in his own defense; he does not appear anywhere in the whole of this record to explain his course or to justify his action or to throw the sweet light of heaven upon his conduct and reconcile it with fairness, justice, and honesty.

If it was not true that Boswell was in league with the friends of the contestee in this case to debauch the ballot boxes of that county

and to divert its vote from the direction in which it had been actually cast, why is he not produced? Why does he not show himself and defend or explain his action?

You find further along in this case that it is virtually admitted by witnesses called on both sides that it has been a time-honored custom to count out the negro vote in Fayette County.

Naturally and fairly the colored voters of this district, upon national issues at least, are from 90 to 95 per cent in favor of the Republican ticket. This was the uncontradicted testimony and seems not to be disputed. If they are not intimidated and their votes are not stolen and they defrauded of their right of suffrage, their vote would invariably be found to have been cast almost solidly for the Republican nominee. This is a significant fact and, taken in connection with what has been unveiled in the record in this case, namely, that the election boards in the various precincts were organized on the same plan and wholly in the interest of Carmack, and although the precincts were heavily colored, but a mere handful of the negro vote credited by these Carmack officers in the returns to Patterson, makes up a complete case of circumstantial evidence, proving conclusively that there was an organized and consistent scheme carefully elaborated and carried through to steal the Republican vote of that county and appropriate it to the contestee, for whom it was never cast.

Mr. JOHNSON of Indiana. Will the gentleman state what was the majority returned for the sitting member?

Mr. KIRKPATRICK. The majority returned was 365. I will show you in a moment how it was obtained. In two of the districts in Fayette County, No. 9 and No. 13, the colored voters declined to vote at all, because they found the election boards organized in such a way that they were utterly powerless to have their votes counted. They were wholly discouraged and abandoned all effort to thwart the fraud so obviously contemplated. Of course your committee could not count those votes, they not having even been tendered. But in districts 1, 5, 7, 12, 14, 15, or in most of them, it fortunately happened, through the courage and determination of a few fair-minded men who happened to be at the polls at the time the attempt was made to organize them, that a measure of fairness and some kind of representation was secured for the Patterson following, approximately resulting in a sufficiently honest count in these districts.

Every scheme of conspiracy, every plan of wrong and injustice, which is complicated and dependent for its consummation on a number of persons in various localities, such as an arrangement of this kind must be, is liable to failure in some detail or in one or more of the many places involved. It so happened here. Mr. Patterson did secure a fair count in a number of these districts in Fayette County. What does the record show in regard to them? They were also largely colored districts, and in every one of them where there was a fair opportunity to count the ballots as they were cast—in every one of them Mr. Patterson got something more than the colored vote.

That shows that where the colored Republican voters and those Democrats who stood by Mr. Patterson were fairly credited the natural law that governs the ballot of the colored man in the South prevailed, and the result was that Mr. Patterson got in these districts, as our tables will show in the report submitted to the House, about or somewhat more than the colored vote of

those districts. I call your attention particularly to district No. 1 and district No. 5, on page 7 of the majority report, where by a tabulation of the white and colored vote you will so discover it.

Now, district No. 1 and district No. 5 join on the southwest and west the district known as Yumyum, No. 4, and in this latter district, as an illustration, with abundant material in that district from which to select an intelligent and educated representative of Mr. Patterson and of the Republicans, they were represented by a man who signed the election returns with his mark, as appears on page 416 of the record, thus disclosing conclusively his illiteracy and utter unfitness to represent the Republicans in that district so notorious in times past and by its disgraceful history justifying the suspicion that was cast upon it by the efforts of the voters there to protect themselves against the anticipated fraud. And yet, in a district that contained 241 colored voters who actually voted, there being some 400 or 500 colored voters altogether, including the 241 who cast their votes that day, besides a number of white voters who were proven to have cast their votes for the contestant, when the poll was counted and the returns published, Mr. Patterson received but 10 votes in that precinct, and 305 votes were returned for Mr. Carmack.

Extraordinary result! With a homogeneous colored population, with the colored voter naturally voting upon State, Presidential, and national issues with the Republican party, with the colored vote in districts No. 5 and No. 1 all cast for the Republican candidate or the candidate indorsed by the Republican organization just over the boundary line, with identically the same kind of people having the same sympathies, the same feelings, with no element disclosed differentiating them in their choice or prejudices in this election, we find that recklessly and in the broad light of day, probably in the expectation that Bryan would sweep the country and therefore Carmack's seat would be safe, 305 votes are counted for Carmack and but 10 paltry votes allowed Patterson. Methinks they overdid it, and "vaulting ambition," or rather the desperate purpose to count this district and to get this seat at all hazards, "overleaped itself and fell on the other."

It is true that in this district the flimsy defense is attempted to be made that the candidate indorsed by the Republicans was unpopular with the Republican element in that county. Gentlemen of the House, it will not do to use that argument, for wherever there was a fair count, wherever, as in the case of the fifth district, some bold and determined man stood up and saw that there was fair representation on the board—wherever there was a proper count, Mr. Patterson got virtually the entire Republican vote. Wherever the election boards were packed with Carmack men, wherever the officer was a Carmack tool, wherever there were these circumstances of suspicion, such as the refusal to allow the friends of Mr. Patterson in a number of districts to witness the count, in all those cases there was the outcome of but an insignificant, meager vote allowed to him, thus stamping upon the face of the returns themselves, in their variance with all the plain probabilities, the black seal of the fraud that was so audaciously and wickedly perpetrated in this Congressional district.

More than that: I have called attention to the proportion of the white and colored votes and the fact that under the returns and according to the record Mr. Patterson got substantially the entire colored vote in the uncontested precincts. In all the districts that

are not contested—where the vote was comparatively fair and where there was proper representation on the board—there was a partial miscarriage of the comprehensive plan, which was intended to embrace the entire county. But, as I have already said, the scheme, of course, necessarily would prove more or less imperfect and disturbed in many of its parts. No machine of human construction that depends upon the personality of the agents and operatives can work perfectly. Fortunately, the scheme was not entirely perfect in its working in the present case.

In these contested precincts, Nos. 2, 3, 4, 6, and 8, the two numbered 10 and 11, what was the vote? There were 830 white voters who voted and 917 colored voters who voted. There were a great many voters in this district who were hopeless of a fair count and did not go through the empty ceremony of casting their votes. They abstained from taking part in what seemed to them but a solemn mockery. But take the votes that were presumably cast and counted. There were 830 white and 917 black. And yet when you come to count up the votes of Mr. Patterson, what do you find? Remember that in all these contested precincts in Fayette County, where the machinery was so well oiled and so effectively operated, Mr. Patterson got altogether but 243 votes and Mr. Carmack 1,492.

Why, sir, I need not go a step further in this case. Let it be observed that there was an evident attempt to handle the nomination of Mr. Carmack so that he could get the indorsement of the Republican party. The record is full of the unblushing admissions of the Democratic party, or those acting in its interests, that the county had been uniformly stolen from the Republicans year in and year out. You have propositions and colloquies between the leaders of the Republican party and the Democratic supporters of Mr. Carmack—discussions of the question of securing a fair count, suggesting an indorsement of Carmack as a consideration for the allowance of a fair vote, thereby boldly and freely intimating that in the absence of such an arrangement, in the absence of an indorsement of Mr. Carmack, the old story would be repeated, and Fayette County would be counted as of old—the legal vote suppressed and one more outrage perpetrated upon the freedom and purity of the ballot.

Such is the aspect of this case, taken in its entirety. Now let me refer to the law of Tennessee regulating the matter of the appointment of these election officers and the conduct of the elections. These are the statutory provisions:

> The sheriff, and if he is a candidate, the coroner, shall hold all elections. (M. and V. Code, section 1044.)
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> The county court shall appoint three judges for each voting place, who shall be of different political parties. If the court fail to make the appointment, the sheriff, with the advice of three justices of the peace, or, if none be present, three respectable freeholders, shall appoint said judges. (M. and V. Code, sections 1047 to 1049.)
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> If the sheriff or other officer whose duty it is to attend the particular place of voting fail to attend, any justice of the peace present, or if no justice is present, any three freeholders, may perform these duties, or in case of necessity may act as officers or inspectors. (M. and V. Code, section 1050.)
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> When the election is finished, the returning officers and judges shall, in the presence of such of the electors as may choose to attend, open the box and read aloud the names of the persons which shall appear in each ballot. (M. and V. Code, section 1068.)

It is said that Mr. Patterson's demand for representation on the election boards was an illegal demand; that the law did not provide that he should be represented on these boards, but that the

Republican party should be so represented. Well and good. You will find by the record that the effort was to obtain in most cases a representation of Republicans on the board. But after all, this is a mere quibble; and in the light of what was done in Shelby, Tipton, and Hardeman counties, where the county court appointed the judges, and Mr. Patterson in most instances was represented on these election boards, we need have no difficulty in disposing of this suggestion. The true spirit and intent of the law was thus carried out without regard to whether such representative was a Sound Money Democrat or in all respects a Republican and in full line with the Republican party. This action of the court and the concession and consent of the supporters of Mr. Carmack and of the Republicans alike that this was a proper administration of the law settle the question.

But in this contest, at this belated hour of this story of wrong and injustice, we are met with the technical objection that Mr. Patterson was not entitled to representation; that the candidate to be represented must have been a full-fledged, active Republican, in full line and harmony with the Republican party. I do not think there is a lawyer on the floor of this House who would attempt to cover up and justify a wrongful count upon any such narrow technicality or any such view of the law of Tennessee.

Then, again, the election laws of Tennessee require that there shall be a witness of the count. I have already quoted from these statutes and it is unnecessary for me to repeat the citations. We may assume that such is the positive law of Tennessee.

In all of these contested districts, the colored districts, in which, except No. 2, the colored voters were largely in the majority, as shown by the tabulated statement accompanying the report, with about 1,000 Republican colored votes cast, with these Republicans undoubtedly loyal to the national ticket, McKinley's electors, Patterson received, according to the count, in the neighborhood of but between two and three hundred votes and Carmack, in round numbers, 1,500. So if every white vote was counted for Mr. Carmack, although not wholly cast for him, because Mr. Patterson received (and undoubtedly we are justified in the statement by the evidence) not less than 200 white votes in Fayette County alone—yet if Mr. Carmack had received all of the white votes, it was necessary for him to receive, besides, three-fourths of the colored votes in order to make up the 1,500 that were accorded to him.

Why, Mr. Speaker, I need not go any further in my argument to justify my vote to seat Mr. Patterson in this contest. But, gentlemen of the House, whatever may be your feelings or prejudices in this matter, I have a right to believe that you are conscious of the fact that you sit here in a purely judicial capacity. I assume you will be honestly and intelligently guided and controlled by the testimony in the case. I assume that you will decide the question on judicial grounds solely, however you may regard Mr. Patterson personally or politically. So that, whatever your feelings may be toward him, you will not fail to realize that you are called upon to act as judges of this contest, guided and influenced by the testimony alone. Your judgment will be dictated, I am anxious to think, by a full, fair, and just consideration of the law and the proofs submitted. Whether Mr. Patterson is a dangerous antagonist or a useful ally, whether his presence in this House may or may not be a standing rebuke to the madness and folly

that seized his party and, like a wild mountain torrent, carried it far away from those distinctive principles which were so long its boast and glory in the past, I dare to hope that the decision of this controversy will depend alone upon the evidence as to the honesty of the vote cast, and for whom the honest voters of the Tenth Congressional district of Tennessee gave their votes in the last Congressional election.

Now let me, for a little while, call your attention to some of the details of this conspiracy. I have already quoted the law of Tennessee. I have shown you that the law was deliberately violated in a number of instances in the construction and composition of these election boards. Now I will call your attention to some of the particulars. You will find that in district No. 2, Eola, the so-called Republican representative on the election board was an ignorant negro who could not read nor write. He signed his mark to the return.

In No. 3, Fayette Corners, Billy Marbury, an ignorant negro, could not read nor write, and made his mark on the returns. At No. 4, Yumyum, Harry Thompson, can not write; signed the returns by making his mark. No. 6, Braden, Austin Rogers, could not read or write; made his mark to the returns. No. 6, Galloway, all the judges were white—Carmack men. At No. 8, Oakland, Louis Wilson, an ignorant negro, unable to read or write, was appointed as the Republican representative. At Canadaville, No. 9, Mack Harris, an ignorant negro, unable to read or write, and made his mark. At No. 10, Piperton, William Wright, a negro, unable to read or write, likewise made his mark. At No. 11, Mason, Abe Hazelett, an illiterate negro, made his mark on the returns. I might also remind you of the fact that in No. 3 there was a refusal to allow any of the electors to witness the count, although the request was expressly made of the election officers. This was also true of precinct Braden, No. 6, as well as of Mason, No. 11, in Tipton County.

Mr. HENRY of Mississippi. Whom were they representing, those fellows who could not read or write and who made their mark?

Mr. KIRKPATRICK. The man who could not read or write was appointed by the officer who represented Mr. Carmack, or through his influence, and he was appointed, I say, because he could not read or write, and because he would not be able to detect the perpetration of the meditated fraud.

Mr. HENRY of Mississippi. Whom was he representing?

Mr. KIRKPATRICK. I do not know whom he represented. He was really intended to represent the friends of Mr. Carmack. He was nominally supposed to represent the Republican voters. He was put on the board against the protest of Republican voters, who were calling for a respectable, educated, and competent man who could check the apprehended fraud and protect their interests. He did in reality represent the Democratic party and was a mere tool in their hands.

Mr. GAINES. He was a Republican, was he not?

Mr. KIRKPATRICK. No; apparently not, in many instances.

Mr. HENRY of Mississippi. I thought you said he was a colored man; and the colored men are all Republicans, according to your claim.

Mr. KIRKPATRICK. In the argument, in the briefs, and in the minority report the preposterous claim is made that Carmack

was the choice of the colored voters of these disputed districts, in spite of the fact that in the undisputed districts the colored voters, almost to a man, cast their ballots for Patterson.

Mr. HENRY of Mississippi. Did you not say——

Mr. KIRKPATRICK. I will not be interrupted any further. Although the party represented by Mr. Carmack are arrayed against the right of the colored voter to vote and have his vote counted, although the colored voter is systematically defrauded of his vote, although under the pretense of defending and protecting themselves against the bugbear of black supremacy, he is hated and intimidated and cheated election after election, yet they have the audacity in this contest to claim that Mr. Carmark had three-fourths of the colored votes and all the white votes of these contested districts.

I have called your attention to these other two districts in a very cursory way. I leave the report of the majority of the committee to justify itself. In the statement of the case there is a sufficient argument and justification for the treatment which the committee gives to those precincts.

Now, district No. 4 is contiguous to No. 5. I have already alluded to that fact. In district No. 5 the normal Republican colored vote was 241, as cast, and all of it was cast for Mr. Patterson and so returned. In district No. 4, with the same kind of people and about the same proportion of white and black voters, but 10 votes were cast for Mr. Patterson, according to the returns. and a number of these, according to the testimony, must have been white votes. There is another significant fact about this precinct. Anticipating that the vote would be tampered with and manipulated, as the event justified, provision was made to take a list of the vote while being cast, and the evidence on the record itself showed that 61 colored citizens were listed as having actually voted for the Republican ticket, and many more besides were shown to have so voted.

Now, I have called your attention to the Fourth district, in which but 10 votes were returned for Mr. Patterson and 28 votes for the McKinley electors.

Thirty-seven voters were called and examined as witnesses, one-half of the entire 74 subpœnaed; but through the tactics of the counsel representing the contestee and their prolonged and utterly irrelevant cross-examination, it was impossible, practically, to examine them all. True, there were some days left, but the threatened consumption of the narrow limit of time still remaining compelled abandonment of the examination of the rest. But there were 37 of them examined, and they all testified, in addition to the colored man who was put there to represent the Republican party on the board, who voted, according to his own testimony, the straight Republican ticket.

Illiterate as he was, he was able to say that he voted the straight Republican ticket, because he said that the straight Republican ticket was put in his hands to vote, and he was told to vote it; and there was no denial by anybody on the stand that he voted the ticket that contained the names of the candidates for the legislature, who were also before the people for their suffrages. The 37 voters who were called upon the stand, one after another, testified that they voted the ticket that had the names of J. T. Leake and J. O. Randall upon it, as well as Josiah Patterson; and yet, in the count which we have in this case, the official count, there

was not a single vote returned for Mr. Leake and not a single vote returned for Mr. Randall.

Not only do we have the suggestive fact itself that there were 305 votes reported for Mr. Carmack and but 10 votes for Mr. Patterson, but we have the fact that at least 38 votes were actually cast for Mr. Patterson and cast for Mr. Leake and for Mr. Randall, neither one of the two latter of whom received a single vote in the returns. What more do you want? You have a heavy colored district; you have the admitted statement that the negro voter votes the regular Republican ticket. You have the fact that he is despised, feared, and hated by those who advocate white supremacy in that district, and that he was fully conscious of the hostility of the Carmack party to his exercise of political rights. You have the fact that in the neighboring districts the colored voters almost to a man voted for Patterson.

You have the fact that 37 respectable and intelligent men who were able to write and read their ballot swore that they did cast their votes for Josiah Patterson, and for Mr. Leake, and for Mr. Randall; and yet under the manipulation of the two Carmack supporters on this board, notwithstanding the presence of this automaton, the judge, who was put there ostensibly to represent the Republican voters and yet could not read the ballots that were counted, you have the fact that out of this mill of fraud and chicanery there was ground this return of 305 for Mr. Carmack and but 10 votes for Mr. Patterson, and none for Mr. Leake, and none for Mr. Randall.

Do you want the eye of a person who saw the transaction? Do you want a living witness? Circumstantial evidence will hang a man, and the circumstantial proof in this case is utterly inconsistent with any other theory than that the election board openly, boldly, and infamously, without the fear of God or man before their eyes, cheated these Republican voters out of their ballots, which the law of the State of Tennessee had put in their hands as their weapon and shield. In considering this district we discard the official return, and then we take the votes shown to have been cast by persons there. Undoubtedly more votes were cast for Mr. Patterson, but the limitations of the evidence only enable us to count 38, and we have given Mr. Carmack the entire vote his testimony tended to prove. Undoubtedly he had more, and Mr. Patterson had more, but the votes, to some extent, by the very fraud itself and the stress of the proof, are shut out. Accordingly we have counted 38 votes for the one and 11 for the other.

Now, let us come to the next precinct, and that is Galloway, No. 6. In Braden, No. 6, the fraud was so transparent that counsel on the argument admitted that Patterson was entitled to 13 of the votes counted for Carmack, being that many more than the 4 counted and allowed him. It was admitted that he had received these additional votes, which made a difference of 26. Therefore it is unnecessary to argue the case of district No. 6, but it operates to add cogency and force to the theory that it was a part of the omnibus scheme to count this county away from the voters to whom it properly belonged and for a man who had not the shadow of a right to it under the laws of the State and under a fair count of the vote as it was really cast.

Now, in this district of Galloway we have this set of circumstances: We have a man by the name of Braden appointed as

sheriff's officer, a Carmack man. What does he do? He goes to the poll before 9 o'clock, that being the hour of opening the poll, and appoints three judges with the aid of a number of freeholders, all of the same politics with himself and carefully selected as willing tools to carry out the plan, although the proper persons to make those appointments under the law of Tennessee were the justices of the peace. One of those justices had gone the night before to interview on this very subject another justice who was in the interest of Carmack, and who refused and put him off, pretending indifference, and yet the next morning it appears that he was in close concert with the Carmack people in organizing this poll and in carrying out the general plan to which I have directed your attention in the early part of my argument.

Now, until 11 o'clock, Braden, finding the Republicans were prepared, seeing that they had a number of representatives there to count the votes and to take the names of the voters as they might deposit their tickets and make a memorandum or list of them, tried every way possible to prevent proper intelligent Republican representation on the election board. He went off some distance and got a poor negro, a half idiot, who could not read or write, and who was working in a ditch, by the name of Ed Brown, and sought to impose him upon the Republican voters of that district, of whom there were 200 or 250 gathered around the polls at the time.

What did he do? He refused to appoint a number of persons who were competent and intelligent enough to have properly counted the ballots, and insisted on appointing this miserable creature; and when they refused to accept him and persisted in their objection, instead of appointing a competent and proper person, he, fully intent upon his purpose, determined to work out the scheme in which he was the active agent, appoints another colored man by the name of Peyton, who was equally objectionable and equally incompetent. Then, at 11 o'clock, although the people were clamoring to have the polls opened, although the voters were denied the right to cast their votes, at 11 o'clock Squire Griffin, a justice of the peace, announced that if Braden would not hold the election under the law of the State of Tennessee, he would.

Braden declared that he would not hold the election. He saw his purpose defeated; he saw three or four Stalwart Republicans ready to take down the list of the voters who expected to vote an open ticket; he saw his play discovered and his plan checkmated. He declared, in spite of opposition, that he would not hold any election. Not being successful to the full extent of his purposes and expectations, he proposed to defeat the popular will altogether by denying them an election at all. Then Justice Griffin, upon that statement, said, as he had the right to do, if Braden would not hold an election he would. Braden went out of the room where they had contemplated holding the election. The judges whom he had appointed also went out and dispersed, and then Griffin organized the poll, and the voters began to cast their ballots, when Braden, finding the people were voting at the other poll, changed his mind and announced that he would hold the election. Already the voting had commenced at the poll thus organized by Griffin; already there had been cast a number of votes, and for ten or fifteen minutes that election was in full force. I need not take time to point out to you the evidence which incontestably proves these facts.

Upon these facts, what did the committee do? Acting upon the case of McDuffie *vs.* Davidson, decided by the Fiftieth Congress, under a similar state of facts, in a report as to this point, sustained by the majority and the minority of that committee, it was decided that a poll opened under precisely the same circumstances was a legal poll, and was counted upon a unanimous recommendation. Both political parties were represented on the committee, and the action of Congress sustained the finding of that committee.

Mr. BURKE. Is it not a fact that Mr. Griffin, who attempted to open the polls for the second box, and the others with him ultimately went and cast their votes in Mr. Braden's box?

Mr. KIRKPATRICK. No, sir; I think it is stated in the minority report that the judges, officers of the second poll, cast their votes in the first box. I will protect my friend on the other side from making what may be an innocent mistake; that is not the fact. The record shows that every one of these judges and clerks voted in Griffin's box, and therefore gentlemen ought not to be misled by any such assumption as that.

A MEMBER. Is the gentleman referring to Oakland?

Mr. KIRKPATRICK. No; I am referring to Galloway, No. 6. I have not come to Oakland yet.

Now, if the House please, so far Mr. Patterson is elected. I have here a statement showing that Mr. Carmack on the official return had 365 majority. If you throw out the vote of Yumyum, No. 4, and count but 38 for Patterson and 11 for Carmack (which is doing a great deal better for Carmack than if we actually attempted to count all those votes which were cast), and deducting the change of 26 by taking 13 votes at Braden, No. 6, from Carmack and transferring them to Patterson, which was consented to by the counsel on the argument, you will find that our report as to those two districts alone would leave a majority in favor of Mr. Carmack of but 17.

And then when you come to the Galloway case, which I have explained, where it can not be doubted that the poll organized at this precinct, No. 6—the box I have described to you as having been organized by Justice Griffin, was the legal and proper box—and if you cast out the other box which Braden attempted to set up after the people had already decided to vote at the other place—rejecting the 62 votes cast at the Braden box as they should be, because not a legal poll, and counting for Mr. Patterson the 247 votes cast at the legal box, there is left a majority in favor of Mr. Paterson of 292.

Gentlemen, I could rest my case here. Although the record bristles with wrong and injustice such as I have already depicted; although the evidence relating to the other contested precincts is equally powerful and convincing as to the fraudulent character and conduct of those who were in charge at those places, depending only upon these three districts about which there can not be the slightest doubt, your decision must be in favor of Mr. Patterson, because the returns, according to the honest vote and under the laws of Tennessee, would give Mr. Patterson 292 majority, or nearly the majority that was falsely and fraudulently counted for Mr. Carmack.

Now, I might spend time on the other precincts, but I refrain from doing so. I shall have to allow the justification of the action of the committee to depend largely upon the report. Taking,

however, the question of the two boxes in the Oakland district, the first box was opened under circumstances almost identically similar to those that I have already described in other cases. The board packed, the election officers in the interest of Carmack, the secrecy and suddenness with which the organization was effected, the failure to count all the votes that were positively shown to have been cast at the Carmack box, the indications of preparation made to count out votes that were cast, the organization of the Republicans in order to check the fraud, the declarations that Patterson would be counted out—so bold and impudent and audacious in many cases that there seems to have been no secret made of it and no consciousness of the moral turpitude involved—all reveal the desperate measures of the Carmack leaders and justify the deep distrust of Patterson's friends.

Alarmed by the declaration of John B. Reed, one of the freeholders who organized the board at Oakland, No. 8, that they were going to count the "darn nigger" out, and that Patterson would not get more than 20 votes, although the majority of the voters in that district were in fact Republicans and colored people, the supporters of contestant felt that their only and last resort was in organizing another polling place, and under legal advice did erect a second box. There is some dispute as to the proper polling place. I call attention to the evidence to show that the locality was not fixed by law.

Probably the truth of the matter is that the elections were held indifferently at either place, and a great deal of liberality and looseness in this regard seems to have been permitted as a matter of practice in these districts; so that this element need not trouble us in deciding this case. Yet, gentlemen of the House, it appears that there were 159 votes cast at this second box. No doubt those who voted at this latter box thought it was the proper place, and, under the authority of the case of McDuffie *vs.* Turpin, reported in Rowell's Election Cases, page 290, we have counted both boxes. This is fair to the voters, as doubtless the votes were cast in both boxes in the belief by those who voted there, respectively, that they were voting at the proper place. I wish to remind you that in this matter of the counting of the votes, in this matter of the determination of an election case, the members of this House sit here in cases of this kind as a court with high judicial powers and prerogatives, a court erected by the Constitution of the Union and clothed with exclusive and supreme power; that in passing upon a State law, so far as it relates to Congressional elections, this court passes upon it as if it were to that extent a Federal law.

In the absence of a Federal statute such as Congress might have passed, the State law, so far as it relates to or regulates the election of members of Congress, is to that extent to be regarded as a Federal law. In the interpretation of this law the decisions of a State court do not bind us unless they are in harmony with the principles which have heretofore guided this court and the precedents of the House of Representatives itself. Any other doctrine would reverse the fundamental principles upon which this Government is constructed. Any other doctrine would radically impair and ultimately destroy the constitutional power placed in the hands of Congress. Just as your State decisions bind when in conflict with the decisions of other States, so the decisions of this court control it whether they are in harmony or at variance with the decisions of Tennessee or any other State. Although no

decisions have been pointed out, and indeed I believe there are none in conflict with the precedent already cited, I wish to emphasize this principle, for the right to judge of the elections and qualifications of its own members is a high constitutional privilege of this House, and in exercising this power we exercise the jurisdiction of a court, we exercise judicial power, and our own decisions are the law of this court. It must be observed that there is a broad distinction between a positive statute and a mere judicial decision. The one is a legislative act, and Congress by its silence or sufferance in the absence of legislation of its own enactment has under the Constitution adopted and recognized such statute as the rule of action governing the matter of a Congressional election. The other is the mere decision of a court in a given particular litigated case. It binds the parties to the litigation and fixes their status as to the litigated matter. Beyond that it is but a judicial utterance as to what the law is; it is but the evidence of such law, not the exercise of legislative will, not the enactment of law. Such decisions are for the guidance of such court or of the subordinate courts of the State. So far as other States are concerned, or other and superior jurisdictions, they control only so far as, by their reasoning, the learning and dignity of the tribunal, and by their intrinsic power and ability, they convince and satisfy the mind as to the particular rule or interpretation thus enunciated.

And therefore, Mr. Speaker, under the authority of its own decisions, under the law as laid down by Congress itself in a well-considered case, and under the principle that a precedent is the expression and best evidence of the law for the court that delivers it, the action of this committee in this matter of the counting of the boxes in the Oakland precinct is abundantly sustained and will be found to be in entire harmony with the law as thus declared and ascertained.

Now, I will not go into the details with reference to the remaining precincts. It is unnecessary to do so. I shall have to content myself with the assistance of those who follow me and with your patient and careful reading of the reasons set forth in the report which have guided the majority of your committee. Already in the double elections to which I have referred, already in the few precincts to which I have invited your more particular attention as typical cases, and which were only parts of a general scheme and taken almost at random out of a succession of signal frauds and most outspoken and unconcealed wrongs perpetrated on the ballot box, I find that there is enough to change the result of the election in the judgment of any fair-minded man who judicially considers the case.

Mr. WM. ALDEN SMITH. Are there any precincts which were not disputed?

Mr. KIRKPATRICK. There are those of which I have already spoken, in which I have stated the colored race was largely in the majority, and in which their votes were cast almost entirely for Mr. Patterson.

Mr. WM. ALDEN SMITH. Is it admitted that Mr. Patterson was represented on the election boards?

Mr. KIRKPATRICK. There is no dispute whatever as to the facts. These four or five undisputed precincts seem to have been fairly counted, and Mr. Patterson got there substantially the

whole colored vote and others besides. In these undisputed precincts Mr. Patterson was allowed some kind of representation on the boards. This happened through the activity and resolution of a number of courageous and determined friends, who confounded the well-laid plans of the conspirators and forced the observance in some measure of the requirements of the law.

Now, Mr. Speaker, to conclude, there is the question of the poll tax which has been raised on the part of the minority in their report, in which they refer to a limit of 75 votes cast for Mr. Patterson and the theory is set up that the poll-tax receipts were not proper evidence of the voter's right to vote because it is alleged the tax was not paid until after the election and that these votes were illegal and should not be counted for contestant. The evidence on this subject is unsatisfactory and mostly inferential. The votes so cast are unidentified, and the proof fails to disclose for whom the votes of persons holding such receipts were actually cast. But whether this is so or not, the poll-tax receipts were received by the voters themselves in good faith, so far as the evidence discloses. As between the tax collector and the State the question of actual nonpayment could not arise, and as between the voter and the election official who carried out the law of the State by receiving the vote upon the presentation of the receipt the matter was adjudicated and the vote was a valid one not open to collateral inquiry after the election.

If he issued the receipts without getting the money until after the election, the collector would have been charged with the money in a settlement with the State. He was concluded thereby, and it was in that case a practical collection of the tax. If the voter voted on the tax receipt without a fraudulent purpose or fraudulent knowledge, believing the tax had been paid, it was no fault of his if the collector did not actually receive the money, and no lawyer in this House will assume that it was, or that the bona fide voter should lose his vote by reason of the act of the tax receiver. He had a right to believe that the tax had been paid, and having presented his receipt he complied with the only prerequisite in that regard, and he was entitled to his vote. Any other view would deprive him of a fair opportunity to perfect his right to vote, upon being advised of the real fact.

Mr. SULLIVAN. You do not mean to say that 75 votes were cast in that way. You mean 175.

Mr. KIRKPATRICK. No; 75 is the number claimed by the minority of the committee. They claim that only that number should be deducted, because that many receipts were assumed to have been used where the money had not been paid, practically abandoning the two or three thousand other votes which were claimed by the contestee as having been cast for the contestant upon tax receipts paid by third parties. This claim was so clearly untenable, under many well-considered legal opinions, that the minority ignore it in their findings. They claim, in other words, that 75 votes from this source, and only under the circumstances I have detailed, should be deducted. Under the conditions of the proof and the well-settled principles applicable thereto I feel justified in appealing to the legal sense of every competent lawyer on the floor of this House that the 75 votes should not be counted for Mr. Carmack or against Mr. Patterson. But if the voter received the certificate showing the tax was paid, and believed that his tax

had been paid, his vote, which was honestly cast, should be honestly counted. It must be counted as it was originally cast; and having been adjudicated a proper vote upon the exhibition of the statutory evidence, to wit, the genuine tax receipt and its acceptance by the election board, it can not now be collaterally attacked. There seems to be no way of escaping this conclusion from a legal standpoint, even if the allowance of this claim of the contestee would otherwise materially affect the result.

Now, Mr. Speaker, under the state of the proofs applicable to all the contested precincts the action of the committee is amply justified. Under the findings of the majority and the corrections in the returns necessitated by a fair and reasonable view of the testimony furnished there can be no other conclusion than that Patterson received at least a majority of 1,242 votes. With regard to the three districts of Yumyum, Braden, and Galloway, in one of which contestant's claim was conceded on the argument, it may be said that they present an absolutely clear case for the contestant and that the most moderate calculation of the real vote in those districts alone would result in a clear majority of 292 for Patterson. This I think I have abundantly demonstrated. Add to this the additional vote of 159 for Patterson in the second poll at Oakland, and you have a further majority for contestant of 451. This result we reach without any reference to the other precincts, where the proofs are equally strong. This is conclusive and presents a case abundantly sufficient to reverse the returns and give the seat to the representative to whom it honestly belongs and send Carmack back to the people of the Tenth Congressional district of Tennessee to vindicate himself, if he can, by an honest appeal to the lawful voters in the next campaign. But so far as this present contention is concerned it is a closed question.

I have only to say that this matter of the redemption of the ballot, of the full and final deliverance of this priceless privilege, from the blighting influence of fraud and intimidation in a large and powerful section of our Union is one that most deeply and vitally concerns that people, much as it concerns and interests us all. The long catalogue of contested-election cases which for many Congresses have come up from the South, with their voluminous records of outrages and frauds upon the ballot box, have afforded ground for the belief that crimes against the suffrage are too lightly regarded and their demoralizing results too little appreciated by an otherwise brave, generous, and magnanimous people.

It is a hopeful sign that the better sentiment of the dominant race is arousing itself to a realizing sense of the enormity of these wrongs and the dangers they entail to the permanency and purity of our free institutions. They are beginning to realize that not only are the prestige and honor of a great and heroic people involved, but the decay and extinction of public spirit and civic virtue must inevitably follow from the further encouragement of these outrages upon this sacred privilege. I have said that this question concerns not only that people among whom these abuses have been unfortunately so long tolerated, but also all the free people of this great and splendid Republic, which now stands guard as the invincible champion of the cause of humanity and the highest Christian civilization in this Western world.

Every Representative who occupies a seat in this House is accountable not only to his conscience and to the constituency who

sent him here for a proper consideration and determination of these cases, but he is answerable to the whole people of this great land, whose Representative he also is, of whose liberties and most precious interests he is a chosen and trusted custodian. He is not here merely to represent and speak for the special community from which he comes, and his duty is not bounded by the narrow confines of his own particular district, nor is he a mere instrument to register its will alone. He is here in a larger capacity. He is here as one of the servants of the whole country and to legislate for the nation at large.

He is here to share in the responsibilities of this great Government, to determine questions of the utmost scope and magnitude, questions of peace and war, questions pertaining to every part of of our magnificent national domain, questions involving the future happiness and destinies of this most favored people on the face of the earth. The determination of the right to membership in this body is therefore a matter of the highest privilege and concern.

The most momentous issues before this House may turn upon the narrowest margin. It might easily happen that in the determination of matters of the highest national moment, matters whose decision may change the current of human history, matters fraught with the most tremendous consequences to us all, the result might hang upon a single vote in this House.

Whether we live in the luxuriant and semitropical South or in the colder and sterner regions of the North; whether we dwell on the shores of the Atlantic or on the great central plains, or upon the distant slopes of the Pacific States, we are all alike concerned for the honor and good name of the Republic and above all for the preservation in all its ancient vigor of the great principle of the rule of the majority. We are all interested in the purity, in the inviolability of the ballot wherever or by whomsoever that ballot is cast. This is a living, a burning question for us all. You, who magnify the power and isolation of the States may elect your governor, your own officials in your own way and by methods however questionable.

You may even count out by a perversion of the election machinery of your State the man honestly elected to its most exalted office and seat him who is not the choice of your people. You may, perchance, be content to accept and live under the administration of an executive never elected by the honest vote of the electors of your State. That is your concern; that is your matter. To be sure, one of deepest, of most serious consequence to you, but yours must be the odium and the resulting demoralization if you permit and condone, and yours the honor and the glory if you condemn and forbid it.

But when it comes to the determinations and decisions of the American Congress, I am as deeply interested as you; I am interested for the honor and dignity and glory of my country. I am interested that the power and will of the people, which are as the breath of life to our republican system, shall have full and free expression in this supreme legislature of the nation.

I am interested as a citizen and a member on this floor that in the decision of those great questions which affect our dearest interests and shape our destinies the Representative who comes from the South or the East or the West and shares in shaping that legislation for you and for me shall come only by the free, uncon-

trolled, and uncorrupted ballot of the constituency who commission him; and since the law of the land has given that ballot to the humble colored voter as well as to the proud, intellectual, and aggressive Anglo-Saxon, since it has placed that ballot in the hand of the man whom you may despise and whose possible dominancy of numbers you may even fear and shrink from, so long as this is the law of the land, so long as he has received that ballot as but some partial measure of compensation for the centuries of wrong and oppression it has been his hard lot to endure, so long as this poor, lowly brother shall carry that talisman in his bosom, I shall ever be ready to stand up here in my place and by my act and speech and vote declare for a free, pure, untrammeled ballot as the hope and salvation of our republican liberty. [Applause on the Republican side.]

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